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By

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Harry R. Howard, Jr.

Examiner: C. Delacroix Muirheir

APPLICATION NO.: 10/024,968

Group Art Unit: 1614

FILING DATE: December 19, 2001

TITLE: COMBINATION TREATMENT OF  
MULTIPLE SCLEROSIS (MS), OTHER  
DEMYELINATING CONDITIONS AND  
PERIPHERAL NEUROPATHY,  
ESPECIALLY PAINFUL NEUROPATHIES  
AND DIABETIC NEUROPATHY

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P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

RESPONSE TO ELECTION/RESTRICTION REQUIREMENT

In the Official Notification of July 8, 2003, the Examiner made a restriction of the claims into Group I, claims 1-21 drawn to the pharmaceutical composition and to Group II, claims 22-30 drawn to a method of treating Multiple Sclerosis or other demyelinating disorders. The Examiner required election of one of the Groups for further examination stating that process for using the product as claimed "can be practiced with another materially different product such as steroids or interferon". In response thereto applicant hereby elects the claims of Group I, claims 1-21 drawn to the pharmaceutical composition, for further examination but traverses the requirement. The reason providing the basis for the restriction is erroneous on its face. Claim 22 of the method claims reads as follows:

"22. A method of treating Multiple Sclerosis, other demyelinating disorders and peripheral neuropathy in a mammal, comprising administering to said mammal: (a) a compound that exhibits activity as an (SRI) anxiolytic agent or an antidepressant, or a pharmaceutically acceptable salt thereof; and (b) neurotransmitter-inducing or precursor agents or pharmaceutically acceptable salt thereof; wherein the active agents "a" and "b" above are present in amounts that render the combination of the two agents effective in treating Multiple Sclerosis, other demyelinating diseases such as encephalomyelitis and peripheral neuropathy such as diabetic neuropathy and painful neuropathy."


The claimed method requires the administration of the compounds of claim 1 (recited in claim 22 verbatim) for the treatment of Multiple Sclerosis, other demyelinating disorders. The method as claimed cannot be practiced with another materially different product such as steroids or interferon even though such indications are often treated with these materials which are neither compounds "...that exhibits activity as an (SRI) anxiolytic agent or an antidepressant...; [or] neurotransmitter-inducing or precursor agents...". The present claims accordingly, do not encompass such materials or use and the Examiner is accordingly requested to review and withdraw the restriction requirement.

Respectfully submitted,

Date: \_\_\_\_\_

8/7/03

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